

**MINUTES**  
**PERSONNEL COMMITTEE**

Wednesday, April 29, 2015  
City Hall, Room 604  
5:15 p.m.

Members Present: Ald. Andy Nicholson, Ald. Thomas Sladek, Ald. Thomas DeWane, Ald. Guy Zima

Others Present: Mayor Schmitt, Ald. Tim DeWane, Ald. Mark Steuer, Lynn Boland, Steve Grenier, Kim Flom, Jim Mueller, Dawn Foeller, Melanie Falk, and others.

1. Roll Call.

2. Adoption of the Agenda.

A motion to adopt the agenda and move item 9 after 3, followed by 7, and then continue with 4, 5, 6 and 8 was made by Ald. Sladek, seconded by Ald. DeWane. Motion carried unanimously.

3. Approval of the minutes from the April 13, 2015 meeting.

A motion to approve the minutes from the April 13, 2015 meeting was made by Ald. Sladek, seconded by Ald. DeWane. Motion carried unanimously.

4. Request to approve the 2015–2017 labor agreement between the City of Green Bay and Local 420, Bus Mechanics.

Manager Falk stated the City and Bus Mechanics union have reached a tentative agreement. Aside from some housekeeping changes, the majority of the TA reflects the items that were reviewed with the committee in February. This agreement is for a 3-year contract from January 1, 2015 through December 31, 2017 with 2% wage increases in 2015, 2016 and 2017 effective at the beginning of the pay period in which October 1 occurs. The agreement includes language that if during the term of the contract other general municipal employees receive a higher wage increase this group will receive the higher increase as well.

Ald. Nicholson asked if the committee needed to convene in closed session. Atty. Mueller stated closed session is not necessary as the parties agreed to the terms and Manager Falk is just reciting the terms of the agreement.

Manager Falk stated two reclassifications will be effective upon ratification of the contract. The Janitor/Custodian position will be reclassified to a Maintenance Tech and the Class B Mechanic to a Mechanic. The annual work boot allowance will increase from \$95 to \$120 to bring them in line with allowances in Public Works and

Parks. Included language regarding notifying the union of work schedule changes in order to allow the union an opportunity to discuss whenever feasible, which is how schedule changes are currently handled. Housekeeping changes include revisions to the overtime language to be consistent with City policy, clarified the assignment of overtime to reflect the current practice, cleaned-up the shift premium language that was confusing and ambiguous, and recommend all references to Class A in respect to the mechanic be removed because of the reclassification and elimination of the Class B Mechanic. Lastly, the Parts Room Assistant position will be re-titled Maintenance Coordinator to reflect the title change that was approved as part of the 2015 budget.

Ald. DeWane inquired whether any additional language was still being worked on and for clarification on the 2% wage increase language. Manager Falk stated there is no additional language being worked on as this is the tentative agreement agreed to by the parties. If other general municipal employees, which exclude Police and Fire, receive a wage increase greater than 2% during the term of this contract, this group would also receive the higher increase. Ald. DeWane asked if general municipal employees receive less than 2% will this group also receive less. Manager Falk replied no, the 2% wage increase has been agreed to by the parties. Ald. DeWane then inquired if another group, such as DPW only received a 1.5% increase, would they be brought up to 2%. Director Boland indicated that decision would be up to the City Council since DPW and Parks Labor Associations can still bargain over their wages. Transit Drivers have similar language in their contract which was settled last year.

Ald. Zima asked whether the wage increase language has been used before and stated he believes this is dangerous precedent. Ald. Sladek stated recent contracts have been for 1-year and believes the union would not have agreed to a 3-year contract without the wage increase language. Director Boland understands the committee's view regarding this language, but the circumstances are different now than in the past. The DPW and Parks Labor Associations can only do 1-year salary contracts; they can't do multiple year contracts. The only groups that can do multiple year contracts are Police, Fire, Transit Drivers and Bus Mechanics. Director Boland appreciated Ald. Zima's comments and agreed this language should be avoided in the future.

A motion to send the tentative agreement back to staff to renegotiate the wage increase language (bullet point #4) was made by Ald. Zima. Ald. Nicholson seconded the motion for discussion.

Discussion followed. Ald. DeWane believes the 2% increase is less than Police and Fire have received on a 3-year contract. Ald. Zima stated Police and Fire have a different set of rules because they have bargaining rights. Director Boland stated Transit also has bargaining rights because they receive federal dollars. The language in the tentative agreement is tied to general municipal employee wage increases, not Police and Fire.

No decision on the motion to send the agreement back to staff, 2-2 vote. Ald. Nicholson and Zima yes, Ald. DeWane and Sladek no.

A motion to approve the 2015-2017 labor agreement between the City of Green Bay and Local 420, Bus Mechanics was made by Ald. DeWane and seconded by Ald. Sladek. Motion carried 2-1, with Ald. Zima abstaining.

5. Request by Ald. Tim DeWane to review the Mayor's conduct when contacting commission, committee and authority members before, during and after meetings and to not intimidate or bully the members on how they vote or voted.

Ald. Tim DeWane stated this communication is in reference to an Economic Development Authority meeting held on March 11, 2015. The meeting was consumed by Strategic Behavioral Health Services which took over an hour. The vote was a 2-2 tie for the sale of land to the health services. Two of the members that voted no, were very adamant against the sale. After the meeting, Ald. DeWane observed the Mayor in the hallway talking with a member of the EDA who had voted no. The Mayor did not appear to be happy, and the committee member seemed somewhat embarrassed. Following the meeting between the Mayor and the committee member, the Mayor approached Ald. DeWane and stated the committee member would be changing his vote. The committee member also informed Ald. DeWane he would be changing his vote. Ald. DeWane said he was approached by the Mayor one time regarding his vote and it was somewhat intimidating. There have also been times at council meetings when "bullying" has occurred when the light on the microphone of the council member who's speaking has gone out. Ald. DeWane feels this type of behavior should be stopped.

Ald. Zima asked about the nature of the conversation that caused the committee member to change his vote. Ald. Tim DeWane indicated Ald. Zima would need to ask the Mayor. Ald. Zima is aware of a half dozen occasions when the Mayor has cut off a member when he didn't agree with what they were saying. Sometimes the Mayor resorts to name calling. The Mayor has used his office, and running of meetings to cut off individuals while they are speaking.

Ald. Tim DeWane brought this issue forward to be proactive so everyone can work together as a team. The Mayor will be here for another 4-years.

Ald. Nicholson asked Ald. Tim DeWane if he heard what was actually said in the hallway following the meeting. Ald. DeWane did not hear what was said.

Ald. Steuer was present at the meeting and the context he remembers was board member Mike Vogel made a stand against selling the land to SBH. Ald. Steuer recalls the Mayor said something to the effect of "I put you on this board". Ald. Steuer believes board members should be independent thinkers rather than a product of the administration or the council. Board members should be independent in their thought

processes to make decisions and not be bullied. Ald. Steuer was a little shocked at the comments made by the Mayor to Mr. Vogel during the meeting. Ald. Tim DeWane feels there should be more democracy.

The Mayor indicated he asks people to support the free enterprise system when he talks with them about being on a board. No complaint was filed by the board member on this issue. This was politics because of the election in order to make me look bad. The Mayor said this is hearsay and would like to know if Mr. Vogel felt intimidated.

Ald. Nicholson questioned if Director Boland had a chance to review the tape to support what Ald. Tim DeWane and Ald. Steuer stated. Director Boland believed the discussion Ald. Tim DeWane was referring to happened after the meeting and that was not taped. There was a lot of discussion during the meeting between many people about the requirements of the EDA versus the Council. Ald. Nicholson inquired if there were any personal comments, intimidation or bullying on the tape. Director Boland did not find any discussion on the tape asking someone to change their vote or considering the revote.

Ald. Tim DeWane stated Mr. Vogel was adamant about voting no and asked the Mayor what was said during the conversation in the hallway. The Mayor said he asked Mr. Vogel why he voted that way and he replied he wasn't convinced. The Mayor felt the meeting was kind of poorly run. Mr. Vogel never changed his vote; it was 2-2 and went to Council. The Mayor asks people why they vote a certain way when he talks with them, but doesn't appoint people to boards to vote his way. The Mayor understands he has a passionate personality; and is passionate about the City.

Ald. Nicholson asked the Mayor if he asked the gentlemen to change his vote. The Mayor said when he asks someone why they voted a certain way; it's not asking them to change their vote. Ald. Nicholson asked if the Mayor used the words "change your vote", or "consider changing your vote".

Ald. Steuer explained he went to the EDA meeting to gather more information on the SBH issue and was taken aback by the Mayor's comment after Mr. Vogel voted no. Ald. Steuer's perception was the Mayor looked at Mr. Vogel and stated "I put you on this board".

Ald. Nicholson asked Director Boland if she heard the Mayor's comment on the tape. Director Boland said there was some discussion about the appointment.

Ald. Zima feels the committee needs to listen to the tape.

A motion to hold until committee members review the EDA audio regarding the Mayor's conduct when contacting commission, committee and authority members before, during and after meetings and to not intimidate or bully the members on how they vote or voted was made by Ald. Zima, seconded by Ald. Tom DeWane. Motion carried unanimously.

6. Request to fill the following replacement positions and all subsequent vacancies resulting from internal transfers.

- a. Electrician – Public Works

A motion to approve the request to fill the Electrician position in Public Works and all subsequent vacancies resulting from internal transfers was made by Ald. DeWane and seconded by Ald. Zima. Motion carried unanimously.

- b. Signs & Marking Operator, 2 positions – Public Works

A motion to approve the request to fill 2-Signs and Marking Operator positions in Public Works and all subsequent vacancies resulting from internal transfers was made by Ald. DeWane and seconded by Ald. Sladek. Motion carried unanimously.

- c. Planner II – Community Services Agency

A motion to approve the request to fill Planner II position in Community Services and all subsequent vacancies resulting from internal transfers was made by Ald. DeWane and seconded by Ald. Sladek. Motion carried unanimously.

7. Request to fill new position of Assistant City Attorney I approved as part of the 2015 budget effective July 1, 2015 and all subsequent vacancies resulting from internal transfers.

Atty. Mueller stated this position was approved as part of the budget. The committee members were then provided with a copy of the job description and power point presentation regarding the needs of a fourth attorney. Atty. Mueller noted the law department for the City of Green Bay has the lowest cost per citizen in comparison with the top 10 municipalities in Wisconsin. Even with this position added in at full funding, the City will still be the lowest funded City Attorney's office in the State of Wisconsin. This attorney will handle a lot of legislative functions, like policy and procedure, ordinance drafting, council inquiries and requests, attend meetings as needed, collections, and advise all City departments. Atty. Mueller would like to work on the structure of the department in order to try and create a more sustainable department. Besides myself, there has been 100% turnover in staff in the law department since 2014. Currently, whoever has time works on the issues, but it can be overwhelming, especially for new attorneys. Atty. Mueller would like to delegate the attorneys to specific departments so they get expertise in those areas. This position would also handle some litigation as most of the litigation is currently farmed out. The City has had three attorneys since 1970, so for 45-years the City has been operating with the same staffing level. Atty. Mueller stated this position is desperately needed in order to serve you the way you'd like.

Ald. DeWane asked if this position would be able to handle contracts. Atty. Mueller stated attorneys can usually step in and pick up contracts right away. Ald. DeWane asked whether this position would be able to handle the yearly labor negotiations with DPW and Parks. Atty. Mueller plans on keeping that separate and contract it out. It's good practice to keep it separate from an employment relations standpoint. Director Boland stated labor negotiations are currently handled by human resources. The City Attorney's office is not typically involved in negotiations.

Ald. Sladek inquired if the work being currently outsourced would be reduced. Atty. Mueller stated some of the collection litigation could be reduced. The fourth attorney will do a lot of in-house functions that will free up the other three attorneys to do work that is currently contracted out

Ald. Zima asked what the current staff does. Atty. Mueller stated the Assistant City Attorney I is the City prosecutor and is in court in the mornings; Tuesdays and Thursdays are pre-trials, Mondays and Wednesdays are trials. If there are a lot of trials, they could also be in court on Fridays. Prosecution is probably fifty percent of the ACA I. Madison is twice our size and has 5-full time prosecutors. The ACA I handles 17,000 citations per year. The Assistant City Attorney II handles all the claims within the City, such as mailboxes knocked over by a snowplow, water main breaks. Traditionally the City Attorney has handled a lot of the Economic Development, but everything else, such as litigation and contracts is delegated and spread throughout based on who has time.

After further discussion on the duties and workload of the attorney's office, Ald. Sladek supports filling this position and recalled discussing revising ordinances that are old and had not been looked at in years with the previous City Attorney. Ald. Sladek heard over the last 3-years of a number of places where updating is needed but has not been done because staffing is light. The data Atty. Mueller brought forward is fairly compelling.

A motion to approve the request to fill new position of Assistant City Attorney I approved as part of the 2015 budget effective July 1, 2015 was made by Ald. Sladek, seconded by Ald. DeWane for discussion.

Ald. DeWane's concern is getting the right representation for Council, but feels this position is warranted. Ald. Zima stated people farm collections out. Atty. Mueller explained there are usually three parts to collections. There is the middle man collection agency that makes the calls and sends out the mailers. Atty. Mueller stated he's referring to collections that have gone past that where a lawsuit is being initiated in order to get a judgement.

Ald. Zima feels the City has gotten along fine with current staff. Ald. Nicholson inquired about the communication Ald. Zima brought forward several months ago. Ald. Zima indicated that communication was for an attorney to advise the council.

Ald. Zima inquired about the cost of this position. Director Boland indicated the total cost would be between \$75,000 and \$93,000. Ald. Zima talked about contracting for an attorney on a flat fee basis in the short-term to catch up. Discussion continued on hiring a fourth attorney versus hiring an attorney for council representation.

A motion to open the floor to interested parties was made by Ald. DeWane and seconded by Ald. Sladek. Motion carried unanimously.

Bill Meindl, Mission Road. Mr. Meindl doesn't understand why this issue is being re-litigated. Almost this exact same discussion went on last fall both at the committee level and at the City Council in extensive detail. The Council decided to fund this position for 2015 at mid-year and it also decided not to hire a City Council attorney. Since then there has also been a legal opinion from the Wisconsin League of Municipalities saying that it doesn't feel that the Council has the legal authority to hire a city council attorney on an on-going basis. So, here we go again, these same arguments again, you hear one alderman in particular who doesn't like the mayor because it's his way or the highway, yet the same alderman is insisting on his way.... Ald. Nicholson asked Mr. Meindl to stick to the subject. Mr. Meindl stated this is what gives the Personnel and Finance committees in some corners sometimes a bad name. Mr. Meindl stated the City Council made a decision on this and it seems to me it's the obligation of the personnel committee to follow through consistent on what the Council's decision was and not to open it up again and to have another big debate on the matter, which is what is happening.

Ald. Tim DeWane stated the advice he receives from the attorney's office is mainly paralegal advice on ordinances.

A motion to return to the regular order of business was made by Ald. Sladek and seconded by Ald. Zima. Motion carried unanimously.

Ald. Sladek doesn't believe this is a temporary problem. The data clearly demonstrates the City legal department is understaffed and we can't dispute the fact we lost good people. Ald. Sladek stated it's time to clean this up and add the staff that is necessary.

Ald. Nicholson asked for confirmation this position would report to Atty. Mueller. Atty. Mueller confirmed. Ald. Nicholson then questioned if who the position reports to could be changed by council. Atty. Mueller stated not if this position is under the arm of the city attorney's office. Atty. Mueller is not interested in hiring anyone who doesn't directly report to him. Ald. Nicholson asked whether the reporting structure could be changed by the council and if the attorney could report to someone else. Atty. Mueller responded no, because the City Attorney's office handles all the law business for the City, so there cannot be someone else doing that who doesn't report directly to the City Attorney. Even when outside counsel is hired, they report to me.

No decision on the motion on the floor, 2-2 vote. Ald. DeWane and Sladek yes, Ald. Nicholson and Zima no.

A motion to receive and place on file the request to fill the new Assistant City Attorney position approved as part of the 2015 budget was made by Ald. Zima and seconded by Ald. Nicholson. 2-2 vote, Ald. Nicholson and Zima yes, Ald. DeWane and Sladek, no.

7. Request to modify Personnel Policy, Chapter 19 – Electronic Communication & Information systems Usage Policy regarding the use of cell phones.

Director Boland stated the Advisory Committee approved an item in February prohibiting the use of cell phones for calls or texting while City vehicles are in motion, which was then approved by City Council in March. In the process of adding this language to the current policy, there was discussion regarding the language. Director Boland asks the committee to consider modifying the language to allow for hands-free activation. In looking at other states and jurisdictions that have approved limitations on cell phone usages, their policies allow for hands-free activation while driving.

Ald. DeWane asked if these modifications would allow the operator of the vehicle to be on blue tooth. Director Boland replied yes. Ald. DeWane witnessed a driver from another jurisdiction who was talking on blue tooth, blow right through the intersection.

Ald. Zima stated the driver of the vehicle should focus 100% of their attention on driving. Drivers tend to be distracted even when holding a conversation with a passenger. Ald. Zima feels the language that was approved is fine. The City has had accidents that cost the City a lot of money due to employees not paying attention and using cell phones. The chances of having an accident are 5 to 6 times higher if the driver is texting.

Director Boland stated texting while driving is currently against Wisconsin State Statute.

Director Grenier asked for direction from the committee on how to respond to employee questions regarding the difference between hands free devices and the radios currently in the vehicles. Work will take three to four times longer if every time communication is needed with an operator during a snow plow operation they have to pull over and stop.

Ald. DeWane stated employees are taking direction from the radios, not talking with their parent, daughter, brother, etc. That's a different scenario, employees should use the radios. Ald. Steuer inquired if there have been many complaints regarding employees using cell phones. Ald. Zima said the City has paid big money for accidents because of the use of cell phones.



Ald. Zima inquired if employees have been involved in accidents while using the radio. Director Grenier said a hands-free device on a cell phone operates very similarly to the radios in the vehicles; so employees will ask, if a radio is permissible, why not a hands-free device. Ald. Steuer asked how the radios operate. Director Grenier explained there are mounted units and portable units. Ald. Steuer suggested drivers pull over for conversations on cell phones. Employees are the face of the City and if citizens see an employee doing something that is perceived to be illegal or unsafe, the council members hear about it.

Ald. Sladek stated it's obvious there isn't much energy for opening the policy up, so this request will probably be denied, and that's okay. Ald. Sladek suggested Director Grenier respond to employee questions by informing them the use of two-way radio has been accepted as part of the business of operating the City and because of that acceptance, the City has accepted any risk that comes with that. The City is not interested in opening that risk up further. Further explain to employees that safety is paramount and if they feel use of the radio while driving is hazardous, then the employee should pull over. Director Grenier stated that was the kind of explanation he was looking for.

Ald. Nicholson asked if the original communication was about texting. Director Boland stated it was about calls or texting. If this modification is denied, the policy will read "the use of cell phones for calls or texting is prohibited while City vehicles are in motion, with the exception of emergency vehicles, under emergency conditions".

A motion to receive and place on file the recommended modifications to Personnel Policy, Chapter 19 – Electronic Communication & Information Systems Usage Policy regarding the use of cell phones was made by Ald. Sladek and seconded by Ald. DeWane.

Motion carried unanimously.

8. Report of Routine Personnel Actions for regular employees.

A motion to receive and place on file the report of Routine Personnel Actions was made by Ald. Zima and seconded by Ald. Sladek. Motion carried unanimously.

There being no further business, a motion to adjourn was made by Ald. Sladek and seconded by Ald. DeWane at 6:31 p.m. Motion carried unanimously.

Respectfully submitted,  
Peggy Barden  
Recording Secretary